

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

CHRISTOPHER BOFFOLI, an
individual,

Plaintiff,

v.

CLOUDFARE, INC. a Delaware
corporation; and DOES 1-10,

Defendants.

Case No. 2:18-cv-00163

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

CHRISTOPHER BOFFOLI, (“Boffoli” or “Plaintiff”) hereby alleges for his complaint against CLOUDFLARE, INC. (“CloudFlare”) and DOES 1–10 (collectively, “Defendants”) upon personal information as to Plaintiff’s own activities, and upon information and belief as to the activities of others, as follows:

NATURE OF THE CASE

1. This is a claim for copyright infringement arising under the copyright laws of the United States, Title 17 of the United States Code.

JURISDICTION AND VENUE

2. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over CloudFlare because it conducts

1 substantial business in the State of Washington.

2 4. The claims alleged in this Complaint arise in the State of Washington
3 and the Western District of Washington and elsewhere.

4 5. Venue is appropriate pursuant to 28 U.S.C. § 1391(b)(1-3).

5 **PARTIES**

6 6. Plaintiff is an individual and resident of the Western District of
7 Washington.

8 7. CloudFlare is a Delaware corporation that offers its Internet-based
9 services across the United States.

10 8. Plaintiff doesn't know the true names of defendants named in this
11 complaint as Does 1 through 5 and therefore sues those defendants by such
12 fictitious names. Plaintiff will amend the complaint to include the true names of the
13 Doe Defendants and allege facts supporting their liability when Plaintiff learns
14 them through discovery. Plaintiff is informed and believes, and on that basis
15 alleges, that each of the fictitiously named defendants is responsible in some
16 manner for the acts and omissions that give rise to Plaintiff's injuries, and that the
17 Doe Defendants proximately caused Plaintiff's injuries.

18 **FACTS**

19 **A. Boffoli created copyrightable photographs and registered them with the** 20 **U.S. Copyright Office.**

21 9. Boffoli is a fine art, editorial, and commercial photographer who created
22 "Big Appetites," a series of photographs featuring tiny figures photographed
23 against real food backdrops. Big Appetites has been published in more than 100
24 countries around the world, with coverage in publications such as the New York
25 Times, Washington Post, NPR, and CBS This Morning, among many others. Fine
26 art photographs from the collection can be found in galleries and private collections
27 in the US, Canada, Europe and Asia. Boffoli is frequently hired by magazines for
28 editorial commissions and by large brands for commercial work based on the Big

Appetites series. Boffoli's images are also licensed for publication for books, magazines, websites, and greeting cards.

10. Boffoli's business is based on licensing and selling photographs he creates. Big Appetites photographs are currently available for purchase at fine art galleries, and can also be purchased over the Internet, including through Boffoli's website. Boffoli has licensed use of Big Appetites photographs to greeting card companies, calendars, and others.

11. Boffoli registered each photograph in the Big Appetites series with the U.S. Copyright Office and has Copyright Registration Nos. VAu001106484 (2011), VAu001148370 (2013), VA0001948517 (2013), and VAu001198948 (2015).

B. CloudFlare's customer posted photographs from Big Appetites without license or permission from Boffoli on webpages CloudFlare services.

12. CloudFlare, an Internet-based company, is an online service provider that offers various performance services for websites. It acts as an intermediary between a website visitor and the hosting website, including the websites in this case. CloudFlare has customers in this District.

13. CloudFlare provides services to at least one Doe Defendant and acts as an intermediary between the Doe Defendants and the hosting website which contains content that infringes on Boffoli's copyright (the "Infringing Content").

14. The Infringing Content is displayed on at least four different webpages hosted on servers serviced by CloudFlare:

<<https://unique-landscape.com/resources/assets/upload/2017/3/tiny-people-big-food-by-christopher-boffoli.jpg>>

<<https://uniquelandscape.com/resources/assets/upload/2017/2/christopher-boffoli-creates-edible-larger-than-life-food.jpeg>>

<<https://unique-landscape.com/resources/assets/upload/2017/2/people-on-food-landscapes-by-christopher-boffoli.jpg>>

<<https://unique-landscape.com/resources/assets/upload/2017/3/miniature-people->

1 on-food-landscapes-by-christopher-boffoli.jpg>
 2 <[https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Cleaning-](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Cleaning-up-the-spill-_20593)
 3 [up-the-spill-_20593](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Cleaning-up-the-spill-_20593)>
 4 <[https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Holding-](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Holding-the-fries-_20592)
 5 [the-fries-_20592](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Holding-the-fries-_20592)>
 6 <[https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Colorful-](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Colorful-bakers-_20591)
 7 [bakers-_20591](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Colorful-bakers-_20591) >
 8 <[https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Tie-the-](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Tie-the-lobster-down---_20590)
 9 [lobster-down---_20590](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Tie-the-lobster-down---_20590)>
 10 <[https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Peeking-](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Peeking-into-the-egg-_20589)
 11 [into-the-egg-_20589](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Peeking-into-the-egg-_20589)>
 12 <[https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Enter-the-](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Enter-the-fish-of-doom---_20588)
 13 [fish-of-doom---_20588](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Enter-the-fish-of-doom---_20588) >
 14 <[https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Pasta-car-](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Pasta-car-wash-_20587)
 15 [wash-_20587](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Pasta-car-wash-_20587) >
 16 <[https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Stunt-](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Stunt-jump-_20585)
 17 [jump-_20585](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Stunt-jump-_20585)>
 18 <[https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Against-](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Against-the-teddy-army-_20584)
 19 [the-teddy-army-_20584](https://baklol.com/baks/Random/Adventures-of-tiny-people-in-t-_1653/Against-the-teddy-army-_20584)>

20 A copy of the Infringing Content is provided as Exhibit A. CloudFlare failed to
 21 prevent the Infringing Website from being accessible over the Internet despite
 22 notice from Boffoli.

23 15. On information and belief, CloudFlare can remove the Infringing
 24 Content on the hosting website. CloudFlare can also disable the Doe Defendant's
 25 ability to post content to the Internet.

26 16. CloudFlare has a registered agent with the United States Copyright
 27 Office for receipt of Digital Millennium Copyright Act ("DMCA") notices.

28 17. On October 22, 26, 30 and November 20, 2017, Boffoli sent a notice to

1 CloudFlare informing it of the Infringing Content. Boffoli received an automated
2 response.

3 18. Boffoli's notices and CloudFlare's responses are attached as Exhibit B.

4 19. Boffoli never authorized his work to be posted on the Infringing Website.

5 20. As of the date of this filing, CloudFlare has not removed or disabled
6 access to the Infringing Content.

7 CAUSE OF ACTION

8 COPYRIGHT INFRINGEMENT AND CONTRIBUTORY COPYRIGHT 9 INFRINGEMENT

10 21. Boffoli hereby incorporates Paragraphs 1–20 by reference.

11 22. Boffoli is, and at all relevant times has been, the owner of the copyright
12 in the photographs in the Big Appetites series.

13 23. Each photograph in Big Appetites is copyrightable subject matter under
14 17 U.S.C. § 102(a)(5).

15 24. Boffoli has complied in all respects with the provisions of the Copyright
16 Act and all regulations thereunder.

17 25. Boffoli registered the copyright in each photograph in Big Appetites with
18 the United States Copyright Office.

19 26. Boffoli has the exclusive rights under 17 U.S.C. § 106 to (1) reproduce
20 the photographs in Big Appetites, (2) prepare derivative works based on Big
21 Appetites, (3) distribute copies of Big Appetites, and (4) display Big Appetites
22 publicly.

23 27. Without the permission or consent of Boffoli, photographs from Big
24 Appetites were reproduced, derivative works were made from, copies were
25 distributed of, and the photographs were displayed on the Infringing Websites.
26 CloudFlare continues to service the Doe Defendants, including the delivery of
27 internet traffic to and from the websites.

28 28. Boffoli's exclusive rights in the photographs in Big Appetites were

1 violated.

2 29. CloudFlare induced, caused, or materially contributed to the Infringing
3 Websites' publication.

4 30. CloudFlare had actual knowledge of the Infringing Content. Boffoli
5 provided notice to CloudFlare in compliance with the DMCA, and CloudFlare
6 failed to disable access to or remove the Infringing Websites.

7 31. CloudFlare acted willfully.

8 32. Alternatively, CloudFlare directly infringed Boffoli's copyrights by
9 continuing to allow service to the Doe Defendants, including the delivery of
10 internet traffic to and from the websites.

11 **RELIEF REQUESTED**

12 WHEREFORE, Boffoli asks this Court to enter judgment against Defendants
13 and Defendants' subsidiaries, affiliates, agents, employees, and all persons acting in
14 concert or participation with them, granting the following relief:

15 1. Temporary and permanent injunctions preventing and restraining
16 infringement of Big Appetites by CloudFlare under 17 U.S.C. § 502;

17 2. An order requiring the destruction of all copies made by or under the
18 control of CloudFlare of the photographs in Big Appetites and all articles by which
19 such copies may be reproduced under 17 U.S.C. § 503;

20 3. An award of the actual damages suffered by Boffoli as the result of
21 CloudFlare's infringement plus the profits of CloudFlare attributable to the
22 infringement under 17 U.S.C. § 504(b);

23 4. Alternatively, if Boffoli so elects, an award of statutory damages for each
24 infringement of Big Appetites under 17 U.S.C. § 504;

25 5. A judgment that CloudFlare's infringement was willful and an increased
26 statutory damage award under 17 U.S.C. § 504(c)(2);

27 6. An award of Plaintiff's full costs including a reasonable attorney's fee
28 under 17 U.S.C. § 505; and

1 7. For such other and further relief as may be just and proper under the
2 circumstances.

3
4 Dated: February 2, 2018

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5
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